

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

ERIC BYERS,

Petitioner,

v.

**CIVIL ACTION NO. 1:03CV264
(Judge Broadwater)**

HARLEY LAPPIN, Dir. FBOP,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated April 26, 2005. The petitioner did not file objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby ORDERED adopted.

The Court, therefore, ORDERS that petitioner's motion under 28 U.S.C. §2241 be DENIED with prejudice, based on the reasons set forth in the Magistrate Judge's Report and Recommendation, and STRICKEN from the active docket of this Court.

It is so ORDERED.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 4th day of January 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE